

HOUSE No.

The Commonwealth of Massachusetts



DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

EXECUTIVE DEPARTMENT
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May 3, 2013

To the Honorable Senate and House of Representatives,

I am filing for your consideration a bill entitled “An Act Making Appropriations for the Fiscal Year 2013 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.”

The legislation that I am filing includes supplemental funding requests totaling \$119.3 million (\$107.5 million after accounting for offsetting revenues). The bill includes funding for costs associated with snow and ice removal; deficiencies at the Committee for Public Counsel Services; costs associated with several special elections held this spring; and summer jobs for at-risk youth, among others.

Several of the fiscal year 2013 supplemental funding items are time-sensitive. Accordingly, I request their prompt enactment.

This legislation also includes technical corrections to previously enacted legislation and a few policy matters, including a provision prohibiting charging extra fees for electronic tax filing, a consumer protection measure that will also encourage more electronic filing.

Sufficient revenues are estimated to be available to finance these appropriations. I urge your prompt and favorable consideration of this bill.

Respectfully submitted,

Deval Patrick,
Governor

Message from His Excellency the Governor submitting requests for making appropriations for the fiscal year 2013 to provide for supplementing certain existing appropriations and for certain other activities and projects. Ways and Means.

In the Year Two Thousand Thirteen

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to make supplemental appropriations for fiscal year 2013, and to make other changes in law, each of which is immediately needed for important public purposes, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health.

SECTION 1. To provide for supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2013, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2013. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

Board of Bar Examiners.

Committee on Public Counsel Service.

0321-1510.....	\$16,829,206
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14	0321-1520.....	\$1,400,000
15	SECRETARY OF THE COMMONWEALTH	
16	<i>Office of the Secretary of the Commonwealth.</i>	
17	0521-0000.....	\$12,000,000
18	TREASURER AND RECEIVER GENERAL	
19	<i>Office of the Treasurer and Receiver General.</i>	
20	0610-2000.....	\$500,000
21	0611-1000.....	\$50,000
22	0612-0105.....	\$200,000
23	EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE	
24	<i>Group Insurance Commission.</i>	
25	1108-5200.....	\$11,600,000
26	<i>Human Resource Division.</i>	
27	1750-0300.....	\$347,000
28	EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT	
29	<i>Department of Workforce Development.</i>	
30	7002-0012.....	\$10,000,000
31	EXECUTIVE OFFICE OF EDUCATION	
32	<i>Department of Elementary and Secondary Education.</i>	
33	7061-9010.....	\$8,000,000
34	EXECUTIVE OFFICE FOR PUBLIC SAFETY AND SECURITY	
35	<i>Office of the Chief Medical Examiner.</i>	
36	8000-0122.....	\$250,000
37	<i>Emergency Management Agency.</i>	
38	8800-0001.....	\$641,750

Department of Corrections.

8900-0001.....\$1,800,000

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sum set forth in this section is hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2013. This sum shall be in addition to any amounts previously appropriated and made available for the purposes of this item.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Reserves

1599-1973 For the cost of hired and leased equipment, vehicle repair and sand, salt and other control chemicals used for snow and ice control.....\$55,687,495

Commonwealth Transportation Fund.....100%

Clarify Bid Exemption from Public Records Law

SECTION 3. Section 7 of chapter 4 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 165 to 170, the words “the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person” and inserting in place thereof the following words:- a contract has been executed or, in the case of a real estate transaction, all closing documents have been executed, or a decision has been made to terminate the procurement process; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals until a contract has been executed or, in the case of a real estate transaction, all closing documents have been executed, or a decision has been made to terminate the procurement process.

Clarify Clean Energy Center Bonding Authority

SECTION 4. (A) Section 3 of chapter 23J of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by striking out, in lines 170 and 171, the words “and (31) to administer the trust fund in accordance with section 9” and inserting in place thereof the following words:-

(31) to administer the trust fund in accordance with section 9; and

72 (32) to borrow and repay money by issuing bonds or notes of the center, to apply their
73 proceeds in furtherance of its purposes under this chapter and to pledge or assign or create
74 security interests in any revenues, receipts or other assets or funds of the center to secure bonds
75 or notes, including without limitation amounts received or held in the Massachusetts Renewable
76 Energy Trust Fund established pursuant to section 9.

77 (B) Subsection (g) of section 9 of said chapter 23J, as so appearing, is hereby amended by
78 striking out the last paragraph and inserting in place thereof the following paragraph:-

79 The amounts collected pursuant to section 20 of chapter 25 shall be impressed with a
80 trust for the benefit of the trust fund. To facilitate the center's ability to issue bonds and notes
81 secured by amounts in the trust fund, the commonwealth shall covenant with the holders of those
82 bonds and notes that the amounts collected under said section 20 of said chapter 25 shall not be
83 diverted from the trust fund and that the rates of the mandatory charges under said section 20 of
84 said chapter 25 shall not be reduced while any such bonds or notes are outstanding. In
85 furtherance of the public purposes of the trust fund, income derived from the investment of
86 amounts collected under said section 20 of said chapter 25 shall be expended by the center as
87 provided in subsection (a) and, in the discretion of the center, in furtherance of the public
88 purposes of the center and for the costs of departments and agencies that support or are otherwise
89 consistent with the purposes of the trust fund.

90 PRIM to Invest HCST Funds

91 SECTION 5. Section 4 of chapter 29D of the General Laws, as appearing in the 2010
92 Official Edition, is hereby amended by striking out, in lines 68 to 74, the words "The executive
93 director may invest and reinvest such funds held by the trust, subject to the approval or
94 ratification of the board by a vote of 5 of the 7 trustees, and the board may, subject to such a vote
95 of 5 of 7 trustees, (1) employ any qualified bank, trust company, corporation, firm or person,
96 including the Pension Reserves Investment Trust Fund, to make any or all of such investments,
97 to manage the funds or to advise it on investments, and (2)" and inserting in place thereof the
98 following:- The board shall employ the Pension Reserves Investment Trust Fund to make these
99 investments, to manage the funds and to advise the board on investments. The board may,.

100 Technical Changes to Community Development Tax Credit

101 SECTION 6. (A) Subsection (b) of section 6M of chapter 62 of the General Laws, as
102 appearing in section 29 of chapter 238 of the acts of 2012, is hereby amended by striking out the
103 definition of "Taxpayer" and inserting in place thereof the following definition:-

104 "Taxpayer", a taxpayer subject to the personal income tax under this chapter.

(B) Clause (4) of subsection (c) of said section 6M of said chapter 62, as so appearing, is hereby further amended by striking out the word “fiscal” and inserting in place thereof the following word:- taxable.

(C) Said section 6M of said chapter 62, as so appearing, is hereby further amended by striking out subsections (f) to (k), inclusive, and inserting in place thereof the following 6 subsections:-

(e) The total of all tax credits available to a taxpayer that makes a qualified investment under this section shall not exceed \$1,000,000 in any 1 taxable year. No tax credit shall be allowed to a taxpayer that makes a qualified investment of less than \$1,000.

(f) A taxpayer that makes a qualified investment shall be allowed a refundable credit, to be computed as provided in this subsection, against the taxes imposed by this chapter. If the amount of the credit allowed under this subsection exceeds the taxpayer’s tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer the amount of the excess, without interest. Alternatively, at the option of the taxpayer, a taxpayer entitled to a credit under this subsection for a taxable year may carry over and apply against the taxpayer’s tax liability for any one or more of the succeeding 5 taxable years, the portion, as reduced from year to year, of the credit which exceeds the tax for the taxable year. If the taxpayer elects to carry over a credit balance, however, then the credit refund provision allowed by this subsection shall not apply. The credit shall be equal to 50 per cent of the total qualified investments made by the taxpayer, subject to the limits described in subsection (e). The department shall issue a certification to the taxpayer after the taxpayer makes a qualified investment. This certification shall be acceptable as proof that the expenditures related to that investment qualify as a qualified investment for purposes of the credit allowed under this section.

(g) The credit allowable under this section shall be allowed for the taxable year in which a qualified investment is made.

(h) Community investment tax credits allowed to a pass-through entity such as a partnership or a limited liability company taxed as a partnership shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or pursuant to an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(i) The department shall authorize the tax credits under this section. The total value of the tax credits authorized under this section, together with section 38EE of chapter 63, shall not exceed \$3,000,000 in taxable year 2014 and \$6,000,000 in each of taxable years 2015 to 2019, inclusive.

(j) The commissioner, in consultation with the department, shall adopt regulations to carry out the tax credit established in this section.

(D) Subsection (b) of section 38EE of chapter 63 of the General Laws, as appearing in section 35 of said chapter 238, is hereby amended by inserting before the definition of “Community development corporation” the following definition:-

“Commissioner”, the commissioner of revenue or the commissioner’s duly authorized representative.

(E) The definition of “community investment tax credit” in said subsection (b) of said section 38EE of said chapter 63, as so appearing, is hereby amended by striking out the letter “(c)” and inserting in place thereof the following letter:- (d).

(F) Subsection (b) of said section 38EE of said chapter 63, as so appearing, is hereby amended by striking out the definition of “Taxpayer” and inserting in place thereof the following definition:-

“Taxpayer”, a taxpayer subject to an excise under this chapter.

(G) Clause (4) of subsection (c) of said section 38EE of said chapter 63, as so appearing, is hereby further amended by striking out the word “fiscal” and inserting in place thereof the following word:- taxable.

(H) Said section 38EE of said chapter 63, as so appearing, is hereby further amended by striking out subsections (e) to (i), inclusive, and inserting in place thereof the following 5 subsections:-

(e) The total of all tax credits available to a taxpayer that makes a qualified investment under this section shall not exceed \$1,000,000 in any 1 taxable year. No tax credit shall be allowed to a taxpayer that makes a qualified investment of less than \$1,000.

(f) A taxpayer that makes a qualified investment shall be allowed a refundable credit, to be computed as provided in this subsection, against the taxes imposed by this chapter. If the amount of the credit allowed under this subsection exceeds the taxpayer’s tax liability, the commissioner shall treat the excess as an overpayment and shall pay the taxpayer the amount of the excess, without interest. Alternatively, at the option of the taxpayer, a taxpayer entitled to a credit under this subsection for a taxable year may carry over and apply against the taxpayer’s tax liability for any 1 or more of the succeeding 5 taxable years, the portion, as reduced from year to year, of the credit which exceeds the tax for the taxable year. If the taxpayer elects to carry over a credit balance, however, then the credit refund provision allowed by this subsection shall not apply. The credit shall be equal to 50 per cent of the total qualified investments made by the taxpayer, subject to the limits described in subsection (e). The department shall issue a certification to the taxpayer after the taxpayer makes a qualified investment. This certification

shall be acceptable as proof that the expenditures related to that investment qualify as a qualified investment for purposes of the credit allowed under this section.

(g) The credit allowable under this section shall be allowed for the taxable year in which a qualified investment is made.

(h) Community investment tax credits allowed to a pass-through entity such as a partnership or a limited liability company taxed as a partnership shall be passed through to the persons designated as partners, members or owners, respectively, pro rata or under an executed agreement among the persons designated as partners, members or owners documenting an alternative distribution method without regard to their sharing of other tax or economic attributes of the entity.

(i) The department shall authorize the tax credits under this section. The total value of the tax credits authorized under this section, together with section 6M of chapter 62, shall not exceed \$3,000,000 in taxable year 2014 and \$6,000,000 in each of taxable years 2015 to 2019, inclusive.

(I) Said chapter 238 is hereby further amended by striking out sections 82 and 83 and inserting in place thereof the following section:-

Section 82. The office of commonwealth performance, accountability and transparency, in consultation with the department of housing and community development and the commissioner of revenue, shall review the community investment tax credit in section 6M of chapter 62 and section 38EE of chapter 63 of the General Laws and report on the estimate of the anticipated foregone revenue from the tax credit, whether this tax credit achieves the desired outcome and stated public policy purpose of the tax credit, and if the tax credit is the most cost effective means of achieving this public policy purpose and whether the tax credit should be subject to a recapture if certain conditions are not met. Not later than March 1, 2015, the office of commonwealth performance, accountability and transparency shall file a report, together with any recommendations regarding whether there should be legislative changes to the tax credit or whether the goals of the tax credit can better be served through other means, with the governor and with the clerks of the house and senate, who shall forward the report to the joint committee on revenue, the joint committee on economic development and emerging technologies, the joint committee on community development and small businesses, and the house and senate committees on ways and means.

Prohibit Charges for Electronic Tax Filing

SECTION 7. Chapter 62C of the General Laws is hereby amended by adding the following section:-

Section 90. (a) For purposes of this section, the following terms have the specified meanings:

"Return", a tax document which the commissioner has authorized to be filed electronically.

"Electronic filing", filing a tax document by the use of computer technology, including transmission through the Internet.

"Software company", a developer or vendor of tax preparation software.

"Tax", any tax of the commonwealth or other matter administered by the commissioner under this chapter or any other law.

"Tax document", a return, report, or any other document relating to a tax.

"Tax return preparer", any person or entity that prepares for compensation, or that employs or engages 1 or more persons to prepare for compensation, any authorized tax document. For purposes of this section, the term "tax return preparer" also includes a payroll service.

"Tax preparation software", a computer software program intended for tax return preparation purposes. For purposes of this section, the term "tax preparation software" includes, but is not limited to, a prewritten or standardized software program downloaded onto a tax return preparer's or taxpayer's computer, or an online tax preparation application or service.

(b) A tax return preparer or a software company shall not charge a separate fee for the electronic filing of authorized tax documents. A software company shall not offer a version of its tax software that charges a separate fee for the electronic filing of authorized tax documents and another version of the same tax software that does not, and shall not charge different prices for 2 otherwise substantially equivalent versions of tax preparation software, 1 of which enables electronic filing of tax documents and another of which does not.

(c) A tax return preparer or software company that violates this section shall be liable for a civil penalty of \$500 for the first violation and \$1,000 for each succeeding violation. The civil penalties imposed by this section may be assessed to, collected, and paid by the tax return preparer or software company in the same manner as taxes under section 26..

(d) In addition to subsection (c), and notwithstanding whether any penalty under subsection (c) is imposed, the commissioner may decline to approve any tax preparation software for use by any taxpayer or tax return preparer if the commissioner concludes that the software fails to comply with this section.

Multiple Licenses for Farmer-Winery or –Brewery

SECTION 8. The ninth paragraph of section 12 of chapter 138 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Nothing in this section shall limit the ability of a farmer-winery licensed under section 19B or a farmer-brewery licensed under section 19C to hold or have an interest in a license under section 18 and 1 or more licenses under this section.

Require DCAMM/DOER Approval to Lease State Land for Agency Power Purchase Agreements

SECTION 9. Section 137 of chapter 164 of the General Laws, inserted by section 22 of chapter 209 of the acts of 2012, is hereby amended by striking out clauses (ii) and (iii) and inserting the in place thereof the following 2 clauses:- (ii) the disposition of municipal or, with the prior written approval of the commissioner of energy resources and the commissioner of capital asset management and maintenance, state real property by lease, easement or license for renewable energy shall not require competitive bidding when part of a power purchase agreement or a net metering agreement in a program organized and administered under this section; (iii) with the prior written approval of the commissioner of energy resources and the commissioner of capital asset management and maintenance, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, including the executive, legislative and judicial branches of the commonwealth, may, on behalf of the commonwealth, dispose of real property, by lease, easement or license, which is part of a power purchase agreement or net metering agreement in a program organized and administered under this section, including, but not limited to, construction of renewable energy projects on state property.

Exempt State from Probate Court Filing Fees

SECTION 10. (A) Section 4B of chapter 262 of the General Laws, as amended by section 116 of chapter 93 of the acts of 2011, is hereby further amended by adding the following sentence :- No fee under this section shall be charged to the commonwealth or a state agency, but if an action initiated by the commonwealth or a state agency results in the appointment of a fiduciary with control over the assets of an estate, then any such fees normally chargeable to an estate shall be deferred until the fiduciary is duly appointed and authorized to expend the assets of the estate.

(B) Section 40 of said chapter 262, as appearing in section 60 of chapter 140 of the acts of 2012, is hereby amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

No fee under this section shall be charged for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support, for the filing of a complaint for support of spouse or child pursuant to section 32F of chapter 209, for the filing of a complaint for abuse protection, for the filing of a petition to appoint a guardian, for the filing of a petition to remove a guardian, for the filing of a petition to expand, modify, limit the powers of a guardian, for the filing of a petition to resign as guardian, for the filing of a petition to terminate a guardianship, for the filing of a petition for disabled abuse, elderly abuse, dispense with consent to adoption, the appointment of a guardian, the resignation or termination of a guardian or conservator, the resignation of any fiduciary, to expand, modify or limit the powers of a guardian, grandparent visitation, payment of deposits, for leave to bring suit on a bond, or for registration of foreign custody decree. No fee under this section shall be charged to the commonwealth or a state agency, but if an action initiated by the commonwealth or a state agency results in the appointment of a fiduciary with control over the assets of an estate, then any such fees normally chargeable to an estate shall be deferred until the fiduciary is duly appointed and authorized to expend the assets of the estate.

Extend Pension System Study Deadline

SECTION 11. Section 62 of chapter 176 of the acts of 2012 is hereby amended by striking out the words “January 11”, inserted by section 5 of chapter 435 of the acts of 2012, and inserting in place thereof the following words:- June 30.

CHIA Assessment Revenue

SECTION 12. Item 4100-0060 of section 2 of chapter 139 of the acts of 2012 is hereby amended by inserting after the words “acts of 1997” the following words:- ; provided further, that assessment revenue received after June 30, 2013 for assessments billed in fiscal 2013 shall be credited toward fiscal 2013 revenue receipts.

DSTI Revenue

SECTION 13. Item 1595-1067 of section 2E of said chapter 139 is hereby amended by inserting after the words “nonfederal share of such payment” the following words:- ; provided further, that upon certification from the secretary of administration and finance the comptroller shall credit up to \$11,213,334 in transfers made by the Cambridge Public Health Commission received after June 30, 2013, toward fiscal year 2013 revenue receipts.

Worcester Courthouse Transfer

SECTION 14. (a) Notwithstanding sections 33 to 37, inclusive, of chapter 7C of the General Laws, section 20 of chapter 304 of the acts of 2008, or any other general or special law to the contrary, the commissioner of capital asset management and maintenance may convey a

certain parcel of state-owned land with the buildings thereon located in the city of Worcester to the city of Worcester. The parcel and buildings are located at 2 Main street.

(b) As consideration for the conveyance described in subsection (a), the city of Worcester shall pay the commonwealth \$1 at the time of the conveyance. Upon any subsequent sale or lease of the property or any portion thereof by city of Worcester, the city shall pay half of the net proceeds of any such sale or lease to the Commonwealth.

(c) The city of Worcester shall bear all costs that the commissioner finds necessary or appropriate for the transaction authorized by this section, including without limitation all costs for legal work, survey, title and the preparation of plans and specifications.

(d) Except as provided in subsection (b), the city of Worcester shall be exempt from any requirement to repay any grants or other funding received by the city of Worcester pursuant to any programs administered by or through the commonwealth and used by the city to prepare the property described in subsection (a) for sale or lease.

MassHealth Transferability

SECTION 15. Notwithstanding any general or special law to the contrary, the secretary of health and human services, with the written approval of the secretary of administration and finance, may authorize transfers of surplus among items 4000-0320, 4000-0430, 4000-0500, 4000-0600, 4000-0700, 4000-0870, 4000-0875, 4000-0880, 4000-0890, 4000-0895, 4000-0950, 4000-0990, 4000-1400, 4000-1405 and 4000-1420 of section 2 of chapter 139 of the acts of 2012 for the purpose of reducing any deficiency in these items, but any such transfer shall be made not later than August 30, 2013.

Storm Costs Transferability

SECTION 16. Notwithstanding any general or special law to the contrary, the secretary of administration and finance may transfer funds from item 1599-1711 to item 1599-1710 of section 2 of chapter 139 of the acts of 2012. The secretary shall notify the house and senate committees on way and means in writing not less than 10 days before directing the comptroller to make any such transfer.

Validate UMass Collective Bargaining Agreements

SECTION 17. The salary adjustments and other economic benefits authorized by the following collective bargaining agreements shall be effective for the purposes of section 7 of chapter 150E of the General Laws:

(a) between the University of Massachusetts and the International Brotherhood of Teamsters, Local 25 (Unit B33), for the Boston campus;

345 (b) between the University of Massachusetts and the American Federation of Teachers,
346 Local 1895, AFL-CIO, Faculty Federation (Units D80 and D81), for the Dartmouth campus; and

347 (c) between the University of Massachusetts and the Federation of Maintenance and
348 Custodial Employees, MFT, AFT, AFL-CIO (Unit D83), for the Dartmouth campus.